

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

MICHAEL RENE GARRETT,

Petitioner,

v.

Case No. 1:20-cv-11137
Hon. Thomas L. Ludington

BRYAN MORRISON,

Respondent.

**ORDER TRANSFERRING SUCCESSIVE PETITION FOR WRIT OF HABEAS
CORPUS TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH
CIRCUIT AND DENYING ALL PENDING MOTIONS AS MOOT**

Michigan prisoner Michael Rene Garrett, (“Petitioner”), has filed a dozen pro se pleadings that appear to be intended as a successive bid for federal habeas corpus relief from his Michigan conviction.

In 2005, Petitioner was convicted following a jury trial in the Wayne Circuit Court of kidnapping, Mich. Comp. Laws § 750.349, and he was sentenced to 28 to 60 years in prison. Petitioner’s conviction was affirmed on appeal. *People v. Garrett*, No. 265913, 2007 Mich. App. LEXIS 230 (Mich. Ct. App. February 1, 2007); lv. den. 478 Mich. 927, 733 N.W.2d 54 (2007).

In 2011, Petitioner filed a federal habeas petition with this court challenging his state conviction. He claimed that the verdict was contrary to the “great weight of the evidence,” and that he was denied the effective assistance of counsel on appeal. The Court summarily denied the petition on the merits. *Garrett v. Mich. Dep’t of Corr.*, Case No. 2:11-cv-10305, 2011 U.S. Dist. LEXIS 15412 (E.D. Mich. Feb. 16, 2011).

In 2019, Petitioner filed a motion for authorization to file a second habeas petition in the Sixth Circuit. The court denied authorization to file a second petition. *In re Garrett*, Case No. 19-

1361, 2019 U.S. App. LEXIS 26971 (6th Cir. Sept. 5, 2019).

Petitioner's current submissions therefore constitute an unauthorized successive attempt to obtain federal habeas corpus relief. Federal district courts lack jurisdiction to consider successive habeas petitions absent preauthorization from the court of appeals. *Franklin v. Jenkins*, 839 F.3d 465, 473 (6th Cir. 2016) (citing 28 U.S.C. § 2244(b)(3)); *Felker v. Turpin*, 518 U.S. 651, 664 (1996). When a habeas petitioner files a second or successive habeas petition in the district court without preauthorization, the district court must transfer the case to the court of appeals. *See* 28 U.S.C. § 1631; *Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997).

Accordingly, it is **ORDERED** that the Clerk of the Court shall transfer this case to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. §1631 for a determination of whether Petitioner may file a successive petition.

It is further **ORDERED** that because the Court lacks jurisdiction, Petitioner's outstanding motions (ECF Nos. 3-12, 17-18) are **DENIED AS MOOT**.

Dated: June 12, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon **Michael Rene Garrett** #580170, LAKELAND CORRECTIONAL FACILITY, 141 FIRST STREET, COLDWATER, MI 49036 by first class U.S. mail on June 12, 2020.

s/Kelly Winslow
KELLY WINSLOW, Case Manager